

Kite, Robin

From: Flaherty, Peter D - DNR [Peter.Flaherty@Wisconsin.gov]
Sent: Tuesday, March 03, 2009 2:44 PM
To: Kite, Robin
Subject: RE: Modification of LRB-1401/1 Invasive species

I will review this revision with my Division Administrator and let you know:

1. Enter, at any reasonable time, any premises, building, or structure, other than a dwelling, that is publicly owned or operated or where a commercial enterprise is conducted, where an invasive species is stored, processed, or held; where records or reports relating to invasive species are kept; where vehicles, boats, equipment, or materials are located; or where activities related to invasive species are conducted and enter any vehicle, boat, or equipment used to transport or hold invasive species.

Even if "place" were used in lieu of "premises, building, or structure," this sentence would still be pretty ponderous.

From: Kite, Robin [mailto:Robin.Kite@legis.wisconsin.gov]
Sent: Tuesday, March 03, 2009 2:30 PM
To: Flaherty, Peter D - DNR
Subject: RE: Modification of LRB-1401/1 Invasive species

I think "where commercial activity occurs" works. Or we could say "where a commercial enterprise is conducted". The suggestion about "place" was intended to make a very long sentence more readable. But it was just a suggestion. My goal with all my suggestions, is to make the language more clear so that there will be no dispute as to its meaning. I will wait to hear from you and Sarah Barry about redraft instructions.

Robin

From: Flaherty, Peter D - DNR [mailto:Peter.Flaherty@Wisconsin.gov]
Sent: Tuesday, March 03, 2009 2:18 PM
To: Kite, Robin
Subject: RE: Modification of LRB-1401/1 Invasive species

"Enter, at any reasonable time, any premises, building, or structure, other than a dwelling, that is publicly owned or operated **or in which business is conducted**, where an invasive species...." is too narrow because it suggests an indoor location and it suggests an active wholesale or retail facility where humans are present. Land or an unoccupied building might be used for commercial purposes like growing plants, storing records or some other, more passive commercial conduct. This isn't much better, but how about "**or where commercial activity occurs**" instead?

Robin, today I am way past worrying about concise, and "place" may alter the meaning in an unintended way. I don't want to deal this change if it isn't imperative.

From: Kite, Robin [mailto:Robin.Kite@legis.wisconsin.gov]
Sent: Tuesday, March 03, 2009 1:55 PM
To: Flaherty, Peter D - DNR
Subject: RE: Modification of LRB-1401/1 Invasive species

I suggest the following:

Also, to make this sentence more concise, you might consider replacing the terms "premises, building, or structure" with the word "place". The sentence would then begin: "Enter, at any reasonable time, any place..."

Robin

From: Flaherty, Peter D - DNR [mailto:Peter.Flaherty@Wisconsin.gov]
Sent: Tuesday, March 03, 2009 1:28 PM
To: Kite, Robin
Subject: RE: Modification of LRB-1401/1 Invasive species

If you have specific wording, I will review it with the Division Administrator who wanted this provision changed.

From: Kite, Robin [mailto:Robin.Kite@legis.wisconsin.gov]
Sent: Tuesday, March 03, 2009 1:22 PM
To: Flaherty, Peter D - DNR
Subject: RE: Modification of LRB-1401/1 Invasive species

I really think that the term "commercially owned" is vague. If a building is "commercially owned" I think one would assume that it is owned by a commercial enterprise, regardless of its purpose. I think that if you want to cover a building that is used to operate a commercial enterprise, the term "commercially owned" does not describe that building. That is, the "ownership" of the building is not relevant. What matters is how the building is used. For that reason, I recommend that you refer to a building that is used to operate a commercial enterprise or that is used to operate a business, or similar language. Let me know what you think.

Robin

From: Flaherty, Peter D - DNR [mailto:Peter.Flaherty@Wisconsin.gov]
Sent: Tuesday, March 03, 2009 1:07 PM
To: Kite, Robin
Subject: RE: Modification of LRB-1401/1 Invasive species

Robin,

I'd rather not change the proposed language or add any definitions if it can be avoided, but let me know what you're thinking.

A publicly owned or operated premises, structure or building is one that a governmental unit of some kind owns or operates.

A commercially owned or operated premises, structure or building is one that is owned or operated by a business or has some form of commerce as one of its purposes. It could be owned or operated by an individual, corporation, partnership, LLC, etc., -- it doesn't really matter what form of person owns or operates it.

The proposed language is intended to exempt dwelling places from compliance investigations under subd. 1. even if the place is a commercially or publicly owned or operated premises, structure or building. The expectation of privacy that exists in a dwelling place of any kind is higher.

Pete

From: Kite, Robin [mailto:Robin.Kite@legis.wisconsin.gov]
Sent: Tuesday, March 03, 2009 12:47 PM
To: Flaherty, Peter D - DNR
Subject: RE: Modification of LRB-1401/1 Invasive species

Pete:

I think that your language might need some clarification. Is a "publicly owned" building a building owned by a governmental unit or is it a building that is open to the public? And is a "commercially owned" building a building that is owned by a commercial enterprise as opposed to an individual? Also, what if a dwelling place is also used for business purposes? Do you want to exclude that place? Perhaps we can simply limit DNR's authority to enter a building to premises, buildings, or structures that are primarily used to operate out a business. Let me know what you think.

Robin

From: Flaherty, Peter D - DNR [mailto:Peter.Flaherty@Wisconsin.gov]
Sent: Tuesday, March 03, 2009 11:45 AM
To: Barry, Sarah; Kite, Robin
Cc: Heinen, Paul H - DNR; Crawford, Susan - DNR; Stark, Randall J - DNR; Van Haren, Thomas - DNR; Lutz, Michael - DNR
Subject: Modification of LRB-1401/1 Invasive species

Sarah,

As I explained on the phone this morning, after further evaluation, the Department would like to modify the compliance investigation language in Section 3 of LRB-1401/1 to further limit the Department's authority to enter property without a warrant.

Revise page 5, lines 21 - 25, of LRB-1401/1 as follows:

1. Enter, at any reasonable time, any commercially or publicly owned or operated premises, building, or structure, excluding a dwelling place, where an invasive species is stored, processed, or held; where records or reports relating to invasive species are kept; where vehicles, boats, equipment, or materials are located; or where activities related to invasive species are conducted and enter any vehicle, boat, or equipment used to transport or hold invasive species.

These changes may call for a revision to the bill's Analysis as well.

If these changes are acceptable to Senator Jauch, please let me know.

Thanks

Peter D. Flaherty, Attorney
 Bureau of Legal Services
 Wisconsin Department of Natural Resources

PO Box 7921

Madison, WI 53707-7921

Phone: (608) 266-8254

Fax: (608) 266-6983

E-mail: Peter.Flaherty@wisconsin.gov

Kite, Robin

From: Barry, Sarah
Sent: Wednesday, March 04, 2009 10:08 AM
To: Kite, Robin
Subject: RE: LRB-1401/1 Invasive species revisions

Sounds good, thank you.

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

From: Kite, Robin
Sent: Wednesday, March 04, 2009 10:08 AM
To: Barry, Sarah
Subject: RE: LRB-1401/1 Invasive species revisions

Yes. Just send it over to our front office. Thanks.

From: Barry, Sarah
Sent: Wednesday, March 04, 2009 10:08 AM
To: Kite, Robin
Subject: RE: LRB-1401/1 Invasive species revisions

Should I send that over to you?

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

From: Kite, Robin
Sent: Wednesday, March 04, 2009 10:07 AM
To: Barry, Sarah
Subject: RE: LRB-1401/1 Invasive species revisions

Yes, I will make the change. You will need to return the jacket before I can do the redraft.

Thanks.

Robin

From: Barry, Sarah
Sent: Wednesday, March 04, 2009 10:05 AM
To: Flaherty, Peter D - DNR

Cc: Kite, Robin; Heinen, Paul H - DNR; Van Haren, Thomas - DNR
Subject: RE: LRB-1401/1 Invasive species revisions

I just spoke to Bob again about the timing of the change to the bill and DNR's concerns. He is amenable to making the change now. I will send out an updated e-mail Friday to extend the date for co-sponsorship. I will point out the technical change to the bill in that message. I will also contact each of the current co-sponsors to inform them about the change.

Robin—this is a change from my request yesterday. Would you please incorporate the changes in the LRB draft?

Thank you,

Sarah Barry

Office of State Senator Bob Jauch

118 South, State Capitol

608-266-3510 (office)

608-216-4355 (cell)

From: Flaherty, Peter D - DNR [<mailto:Peter.Flaherty@Wisconsin.gov>]
Sent: Wednesday, March 04, 2009 9:42 AM
To: Barry, Sarah
Cc: Kite, Robin; Heinen, Paul H - DNR; Van Haren, Thomas - DNR
Subject: RE: LRB-1401/1 Invasive species revisions

"Dwelling" is defined in at least 18 different places in the statutes, but not in ch. 23. However, a statutory definition normally isn't needed unless you want to give a term some special meaning that differs from the ordinary meaning that the term has.

In the absence of a statutory definition in ch. 23, a court would look at the other statutory definitions of "dwelling" or apply the ordinary dictionary definition. My internet dictionary gives this definition: a building or place of shelter to live in; place of residence; abode; home. The most basic element of the statutory definitions is: a structure or part of a structure that is used or intended to be used as a home or residence.

From: Barry, Sarah [<mailto:Sarah.Barry@legis.wisconsin.gov>]
Sent: Wednesday, March 04, 2009 8:36 AM
To: Flaherty, Peter D - DNR
Cc: Kite, Robin - LEGIS; Heinen, Paul H - DNR; Van Haren, Thomas - DNR
Subject: RE: LRB-1401/1 Invasive species revisions

Pete—

Thank you for your work on this. As I mentioned Bob would like this to be an amendment offered at the committee stage of the process. We will work with the chairs of each committee regarding the logistics of offering the amendment. I will talk to Bob about this again today. As I have mentioned, the last day to co-sponsor is Friday at COB, so Bob does have the option to extend the co-sponsorship period and send around a note remarking on the change. I will let you know what he decides later today.

One last question for you--

Is dwelling clearly defined as a residential property?

Sarah Barry

Office of State Senator Bob Jauch

118 South, State Capitol

608-266-3510 (office)

From: Flaherty, Peter D - DNR [<mailto:Peter.Flaherty@Wisconsin.gov>]
Sent: Wednesday, March 04, 2009 8:27 AM
To: Barry, Sarah
Cc: Kite, Robin; Heinen, Paul H - DNR; Van Haren, Thomas - DNR
Subject: LRB-1401/1 Invasive species revisions

Hi Sarah,

I think we've finally sorted through all the internal concerns regarding the appropriate breadth of DNR inspection authority in LRB-1401/1.

Here are the revisions we recommend be made on page 5, lines 21 - 25:

1. Enter, at any reasonable time, any premises, building, or structure, other than a dwelling, that is publicly owned or operated or where a commercial enterprise is conducted, where an invasive species is stored, processed, or held; where records or reports relating to invasive species are kept; where vehicles, boats, equipment, or materials used to transport or hold invasive species are located; or where activities related to invasive species are conducted and enter any vehicle, boat, or equipment used to transport or hold invasive species.

Thanks,
Pete

Peter D. Flaherty, Attorney
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PO Box 7921
Madison, WI 53707-7921
Phone: (608) 266-8254
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E-mail: Peter.Flaherty@wisconsin.gov

Kite, Robin

From: Flaherty, Peter D - DNR [Peter.Flaherty@Wisconsin.gov]
Sent: Wednesday, March 04, 2009 3:49 PM
To: Barry, Sarah; Kite, Robin
Subject: RE: LRB-1401

Importance: High

The wording of 1. c. is not consistent with DNR's intent in suggesting the revisions. Our Division Administrator was quite concerned that this wording is too broad. It would allow warrantless entry into any business premises where vehicles, boats or equipment or materials were located, and virtually any business meets these criteria. She wanted some connection to invasives added.

Please consider changing it to read as follows:

1. Enter at any reasonable time any premises, building, or structure, other than a dwelling, that is publicly owned or operated or where a commercial enterprise is conducted, and where any of following the occur:
 - a. An invasive species is stored, processed, or held.
 - b. Records or reports relating to invasive species are kept.
 - c. Vehicles, boats, equipment, or materials used to transport or hold invasive species are located.
 - d. Activities related to invasive species are conducted.

From: Barry, Sarah [mailto:Sarah.Barry@legis.wisconsin.gov]
Sent: Wednesday, March 04, 2009 3:34 PM
To: Kite, Robin - LEGIS; Flaherty, Peter D - DNR
Subject: RE: LRB-1401

Senator Jauch will be fine with this suggestion--

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

From: Kite, Robin
Sent: Wednesday, March 04, 2009 3:33 PM
To: Barry, Sarah; Flaherty, Peter D - DNR
Subject: LRB-1401

Sarah and Pete:

As I discuss your redraft instructions with our editor, we remain concerned that the language in proposed s. 23.22 (5m) is cumbersome and difficult to follow. I would suggest that, without changing any of the language, we break up this sentence to make it more readable as follows:

1. Enter at any reasonable time any premises, building, or structure, other than a dwelling, that is publicly owned or operated or where a commercial enterprise is conducted, and where any of following the occur:
 - a. An invasive species is stored, processed, or held.
 - b. Records or reports relating to invasive species are kept.
 - c. Vehicles, boats, equipment, or materials are located.
 - d. Activities related to invasive species are conducted.

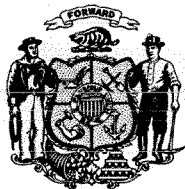
I would then suggest that a new subdivision 6. be added which relates to entering vehicles as follows:

6. Enter any vehicle, boat, or equipment used to transport or hold invasive species.

Let me know what you think.

Robin

Robin Kite, Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
1 East Main Street, Suite 200
Madison, WI 53703
(608) 266-7291



(Soon)
State of Wisconsin
2009 - 2010 LEGISLATURE

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LRB-1401/4

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Insert

2009 BILL

In
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regen.

1 **AN ACT to repeal** 23.225, 23.245 and 30.715 (title) and (1) to (4); **to renumber**
2 30.715 (5); **to renumber and amend** 30.715 (6); **to amend** 23.22 (3) (c), 23.22
3 (6) (b), 23.22 (6) (c), 30.124 (1) (a), 30.1255 (3) (b) and 66.0407 (1) (b); and **to**
4 **create** 23.22 (2t), 23.22 (5m), 23.2355, 30.07, 30.80 (5m), 287.07 (7) (cm) and
5 345.11 (1j) of the statutes; **relating to:** regulating the transportation of aquatic
6 plants and aquatic animals, the administration of federal funds for the control
7 and eradication of noxious weeds, the placement of vehicles, seaplanes,
8 watercraft, and other objects in navigable waters, the regulation of noxious
9 weeds by municipalities, the disposal of invasive species, providing an
10 exemption from rule-making procedures, requiring the exercise of
11 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Natural Resources (DNR) administers various laws to control invasive species. DNR also regulates the placement of certain boats, boat trailers, and equipment (boats) in navigable waters with aquatic plants

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attached. This draft makes various changes to those laws and imposes new restrictions relating to invasive species and aquatic plants and animals.

Placement of certain objects in navigable waters

Under current law, no person may place or use a boat in a navigable water if the person has reason to believe that it has any aquatic plants attached. Current law also prohibits the placement or use of a boat in the Lower St. Croix River if the person has reason to believe that the boat has zebra mussels attached. This bill expands these restrictions by prohibiting the placement or operation of any vehicle, seaplane, watercraft, or other object of any kind in a navigable water if the object has any aquatic plants or aquatic animals attached. Under the bill, this prohibition applies regardless of whether the person had reason to believe that such plants or animals are attached. The bill specifies that the prohibition does not require a person to remove attached aquatic plants or animals during the period of time when the object is being used in the same navigable body of water in which the aquatic plants or animals became attached.

Current law authorizes a law enforcement officer to order a person to remove aquatic plants from a boat before placing the boat in a navigable water and to remove a boat from, or to not place a boat in, a navigable water if the law enforcement officer has reason to believe that the boat has aquatic plants attached. This bill broadens this authority to allow a law enforcement officer to order removal of aquatic animals in addition to aquatic plants and to order their removal from any vehicle, seaplane, watercraft, or other object of any kind before placing it in a navigable water. Under this expanded authority a law enforcement officer may also order removal of any object from a navigable water.

Transportation of vehicles, watercraft, seaplanes, and other objects.

Current law prohibits any person, with certain exceptions, from transporting a boat on a highway if it has an invasive species attached to the boat. This bill expands this prohibition. Under this bill, no person may transport or operate a vehicle, watercraft, or other object of any kind on a highway with aquatic plants or aquatic animals attached. The bill also prohibits a person from taking off with a seaplane with such plants or animals attached. The bill also authorizes, with certain exceptions, a law enforcement officer to order a person not to take off with a seaplane or not to transport or operate a vehicle, watercraft, or other object on a highway if the law enforcement officer has reason to believe that it has aquatic plants or aquatic animals attached. Under the bill, the transportation restrictions do not apply to certain persons, including a person who transports commercial aquatic plant harvesting equipment for the purpose of cleaning the equipment to remove aquatic plants or aquatic animals or to a person who transports duckweed that is incidentally attached to the object being transported.

Invasive species compliance investigation and department authority

Under current law, DNR administers a statewide program to control invasive species. This bill authorizes DNR, for the purpose of administering and enforcing the statewide invasive species program, to conduct compliance investigations. The bill

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>> authorizes a DNR warden or other DNR representative to enter premises where invasive species are stored, where records relating to invasive species are kept, where vehicles, boats, equipment, or materials are located, or where activities related to invasive species are conducted. It also authorizes DNR to inspect invasive species stored or possessed by any person, inspect records or reports relating to invasive species, take diagnostic samples, and seize and destroy certain invasive species.

This bill also establishes DNR's authority to hold hearings relating to any aspect of the administration of the statewide invasive species program. It also authorizes DNR to waive compliance with certain requirements of the program or shorten time periods under the program to the extent necessary to prevent an emergency condition threatening public health, safety, or welfare or the environment. The bill requires every state agency to cooperate with DNR in the administration of the statewide invasive species program where the interests of DNR and the respective state agency overlaps.

Rules

Under current law, DNR is required to promulgate rules to identify, classify, and control invasive species for the purposes of the statewide invasive species program. This bill authorizes DNR to promulgate an emergency rule to identify, classify, or control an invasive species without providing evidence of an emergency. Under the bill, a rule promulgated in this manner remains in effect until the earlier of two years after the rule's effective date, the repeal of the rule, or the date on which a corresponding permanent rule takes effect.

Other provisions

Under current law, any person who owns land is required to destroy noxious weeds on that land. Noxious weeds are defined to include certain weeds such as Canada thistle, leafy spurge, and any other weed that a municipality or county by ordinance or resolution declares to be noxious within its respective borders. This bill expands the definition of a noxious weed to include any weed that DNR designates as a noxious weed by rule.

Under current law, with limited exceptions, no person may dispose of yard waste in a solid waste disposal facility. This bill provides that the prohibition does not apply to the disposal of plants that are classified by DNR as invasive species or seeds of those plants, if the plants or seeds are not commingled with other yard waste.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL**SECTION 1**

1 23.22 (2t) DEPARTMENT POWERS AND COOPERATION. (a) Using the procedure
2 under s. 227.24, the department may promulgate an emergency rule to identify,
3 classify, or control an invasive species under sub. (2) (b) 6. Notwithstanding s. 227.24
4 (1) (a) and (3), the department is not required to provide evidence that promulgating
5 a rule under this paragraph as an emergency rule is necessary for the preservation
6 of public peace, health, safety, or welfare and is not required to provide a finding of
7 emergency for a rule promulgated under this paragraph. Notwithstanding s. 227.24
8 (1) (c) and (2), an emergency rule promulgated under this paragraph remains in
9 effect until whichever of the following occurs first:

10 1. The first day of the 25th month beginning after the effective date of the
11 emergency rule.

12 2. The effective date of the repeal of the emergency rule.

13 3. The date on which the permanent rule identifying, classifying, or controlling
14 the invasive species, promulgated under sub. (2) (b) 6., takes effect.

15 (b) The department may hold hearings relating to any aspect of the
16 administration of this section and, in connection with those hearings, compel the
17 attendance of witnesses and the production of evidence.

18 (c) The department may waive compliance with any requirement under this
19 section or shorten the time periods under this section to the extent necessary to
20 prevent an emergency condition threatening public health, safety, or welfare or the
21 environment.

22 (d) The department may secure necessary scientific, technical, administrative,
23 and operational services, including laboratory facilities, by contract or otherwise for
24 purposes of this section.

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(e) The department may advise and may consult, contract, and cooperate with, other state agencies, local governments, industries, other states, interstate or interlocal agencies, the federal government, and other interested persons or groups for purposes if this section.

(f) Every state agency shall cooperate with the department in the administration of this section where the interests of the department and the respective state agency overlap. The cooperating state agencies may provide by agreement for the manner of sharing expenses and responsibilities under this section.

SECTION 2. 23.22 (3) (c) of the statutes is amended to read:

23.22 (3) (c) The council shall make recommendations to the department on the establishment of a procedure for awarding cost-sharing grants under sub. (2) (c) to public and private entities for up to 50% 75 percent of the costs of eligible projects to control invasive species. The recommendations shall contain criteria for determining eligibility for these grants and for determining which applicants should be awarded the grants.

SECTION 3. 23.22 (5m) of the statutes is created to read:

23.22 (5m) COMPLIANCE INVESTIGATION. (a) For the purpose of administering and enforcing this section, a warden or a representative of the department, upon presentation of his or her identification, may do any of the following:

1. Enter, at any reasonable time, any premises, building, or structure where an invasive species is stored, processed, or held; where records or reports relating to invasive species are kept; where vehicles, boats, equipment, or materials are located; or where activities related to invasive species are conducted and enter any vehicle, boat, or equipment used to transport or hold invasive species.

, other than a dwelling, that is publicly owned or operated or where a commercial enterprise is conducted,

insert
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2. Inspect invasive species stored or possessed by any person.

3. Inspect records or reports relating to invasive species.

4. Take reasonable diagnostic samples for biological examination.

5. Seize and destroy any invasive species possessed or transported in violation of this section or s. 23.235, 23.24, or 30.07 or any rule promulgated or permit or order issued under this section or s. 23.235, 23.24, or 30.07.

(b) No person may do any of the following:

1. Prohibit the department from gaining access to, or conducting an inspection of, any place the department is authorized to inspect under this subsection.

2. Fail to promptly provide records to the department that the person is required to produce under this subsection.

SECTION 4. 23.22 (6) (b) of the statutes is amended to read:

23.22 (6) (b) The department shall submit the biennial report under par. (a) before July October 1 of each even-numbered year. ~~The first biennial report shall be submitted no later than July 1, 2004.~~ Each report shall cover the 24-month period ending on the ~~March 31~~ June 30 that immediately precedes the date of the report.

SECTION 5. 23.22 (6) (c) of the statutes is amended to read:

23.22 (6) (c) In addition to the report required under par. (a), the department shall submit an interim performance report to the legislature under s. 13.172 (2), and to the governor and the council, on the progress that has been made on the control of invasive species. The department shall submit this interim performance report before July October 1 of each odd-numbered year. ~~The first interim performance report shall be submitted no later than July 1, 2005.~~ Each interim performance report shall cover the 12-month period ending on the ~~March 31~~ June 30 that immediately precedes the date of the interim performance report.

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1 **SECTION 6.** 23.225 of the statutes is repealed.

2 **SECTION 7.** 23.2355 of the statutes is created to read:

3 **23.2355 Weed management grants.** The department, in consultation with
4 the department of agriculture, trade and consumer protection, shall promulgate
5 rules that authorize the department, in consultation with the department of
6 agriculture, trade and consumer protection, to provide funds received from the
7 federal government under 7 USC 7782 to eligible recipients for the control or
8 eradication of noxious weeds. The rules shall authorize the department and the
9 department of agriculture, trade and consumer protection to use the funds received
10 from the federal government to provide technical assistance and to make grants to
11 eligible recipients to control or eradicate noxious weeds.

12 **SECTION 8.** 23.245 of the statutes is repealed.

13 **SECTION 9.** 30.07 of the statutes is created to read:

14 **30.07 Transportation of aquatic plants and animals; placement of**
15 **objects in navigable waters. (1)** In this section:

16 (a) "Aquatic animal" means any animal that lives or grows only in water during
17 any life state and includes that animal's eggs, larvae, or young.

18 (b) "Aquatic plant" means a submergent, emergent, floating-leaf, or free-
19 floating plant or any part thereof. "Aquatic plant" does not mean wild rice.

20 (c) "Highway" has the meaning given in s. 340.01 (22), except that it does not
21 include public boat access sites or parking areas for public boat access sites.

22 (d) "Law enforcement officer" has the meaning given in s. 30.50 (4s).

23 (e) "Local governmental unit" means a city, village, town, or county; a special
24 purpose district in this state; an agency or corporation of a city, village, town, county,
25 or special purpose district; or a combination or subunit of any of the foregoing.

BILL**SECTION 9**

1 (f) "Public boat access site" means a site that provides access to a navigable
2 water for boats and that is open to the general public for free or for a charge or that
3 is open only to certain groups of persons for a charge.

4 (g) "Vehicle" has the meaning given in s. 340.01 (74).

5 (2) (a) No person may place or operate a vehicle, seaplane, watercraft, or other
6 object of any kind in a navigable water if it has any aquatic plants or aquatic animals
7 attached. This paragraph does not require a person to remove aquatic plants or
8 aquatic animals from a vehicle, seaplane, watercraft, or other object during the
9 period of time when the vehicle, seaplane, watercraft, or other object is being
10 operated in the same navigable body of water in which the aquatic plants or aquatic
11 animals became attached.

12 (b) No person may take off with a seaplane, or transport or operate a vehicle,
13 watercraft, or other object of any kind on a highway with aquatic plants or aquatic
14 animals attached.

15 (3) A law enforcement officer who has reason to believe that a person is in
16 violation of sub. (2) may order the person to do any of the following:

17 (a) Remove aquatic plants or aquatic animals from a vehicle, seaplane,
18 watercraft, or other object of any kind before placing it in a navigable water.

19 (b) Remove aquatic plants or aquatic animals from a seaplane before taking off
20 with the seaplane.

21 (c) Remove from, or not place in, a navigable water, a vehicle, seaplane,
22 watercraft, or other object of any kind.

23 (d) Not take off with a seaplane, or transport or operate a vehicle, watercraft,
24 or other object of any kind on a highway.

25 (4) Subsection (2) does not apply to any of the following:

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1 (a) A person who transports aquatic plants or aquatic animals in a manner
2 authorized by an approval issued by the department or by a rule promulgated by the
3 department.

4 (b) A person who transports or operates commercial aquatic plant harvesting
5 equipment if all of the following apply:

6 1. The equipment is owned or operated by a local governmental unit.

7 2. The person transports or operates the equipment for the purpose of cleaning
8 the equipment to remove aquatic plants or aquatic animals.

9 3. The person transports the equipment to, or operates the equipment at, a
10 suitable location away from any body of water.

11 (c) A person who transports aquatic plants for the purpose of constructing a
12 waterfowl hunting blind or an observation blind, if the aquatic plants are emergent,
13 cut above the waterline, and contain no invasive species as defined under s. 23.22 (1)
14 (c).

15 (d) A person who transports duckweed that is incidentally attached to a vehicle,
16 seaplane, watercraft, or other object of any kind.

17 **SECTION 10.** 30.124 (1) (a) of the statutes is amended to read:

18 30.124 (1) (a) Cut aquatic plants, as defined in s. 30.715 30.07 (1) (a) (b),
19 without removing them from the water, for the purpose of improving waterfowl
20 nesting, brood, and migration habitat.

21 **SECTION 11.** 30.1255 (3) (b) of the statutes is amended to read:

22 30.1255 (3) (b) The department shall submit the first report required under
23 par. (a) before July 1, 1994, and shall submit subsequent reports before July October
24 1 of each even-numbered year thereafter. Beginning with the report due before July

BILL**SECTION 11**

1 ~~1, 2004, the department shall submit each report required under par. (a) as part of~~
2 the corresponding biennial report under s. 23.22 (6).

3 **SECTION 12.** 30.715 (title) and (1) to (4) of the statutes are repealed.

4 **SECTION 13.** 30.715 (5) of the statutes is renumbered 30.07 (5).

5 **SECTION 14.** 30.715 (6) of the statutes is renumbered 30.07 (6) and amended
6 to read:

7 30.07 (6) No person may refuse to obey the order of a law enforcement officer
8 who is acting under sub. (4) (3).

9 **SECTION 15.** 30.80 (5m) of the statutes is created to read:

10 30.80 (5m) Any person violating any provision of s. 30.07 (2) or (6) shall forfeit
11 not more than \$500 for the first offense and shall forfeit not more than \$2,000 upon
12 conviction of the same offense a 2nd or subsequent time within 3 years.

13 **SECTION 16.** 66.0407 (1) (b) of the statutes is amended to read:

14 66.0407 (1) (b) "Noxious weed" means Canada thistle, leafy spurge and, field
15 bindweed (~~creeping Jenny~~), any weed designated as a noxious weed by the
16 department of natural resources by rule, and any other weed the governing body of
17 any municipality or the county board of any county by ordinance or resolution
18 declares to be noxious within its respective boundaries.

19 **SECTION 17.** 287.07 (7) (cm) of the statutes is created to read:

20 287.07 (7) (cm) The prohibition in sub. (2) does not apply to the disposal of
21 plants that are classified by the department as invasive species under s. 23.22 (2) or
22 their seeds, if the plants or seeds are not commingled with other yard waste.

23 **SECTION 18.** 345.11 (1j) of the statutes is created to read:

24 345.11 (1j) The uniform traffic citation or the citation form under s. 23.54 may
25 be used for violations of s. 30.07. When the uniform traffic citation is used, the report

BILL

1 of conviction shall be forwarded to the department of natural resources. When the
2 citation form under s. 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

3 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1401/2^{ins}
RNK:bjk:jf

Insert 5-25

1 1. Enter at any reasonable time any premises, building, or structure, other
2 than a dwelling, that is publicly owned or operated or where a commercial enterprise
3 is conducted, and where any of the following occur:

4 a. An invasive species is stored, processed, or held.

5 b. Records or reports relating to invasive species are kept.

6 c. Vehicles, boats, equipment, or materials are located.

*used to transport or hold
invasive species*

7 d. Activities related to invasive species are conducted.

8 Insert 6-6

9 6. Enter any vehicle, boat, or equipment used to transport or hold invasive
10 species.